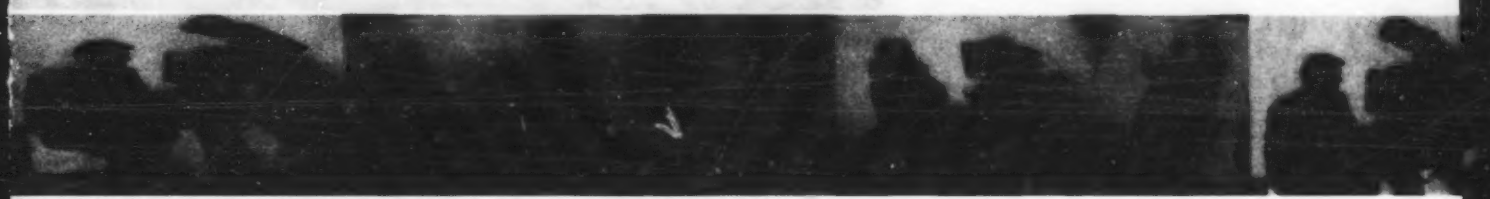
SASKATCHEWAN WORKERS' COMPENSATION BOARD

A Report on 2000 Appeals at the Saskatchewan Workers' Compensation Board



Message from the Board Members

The appeals process at the WCB is a major part of our commitment to openness and accountability in everything we do. Our appeals process is the final check that ensures the integrity of our system; that the decisions we make use the correct interpretation and application of the Workers' Compensation Act, our policies and values. It contributes to our vision, which is to lead in the provision of work injury insurance and services.

While the Workers' Compensation Act does not specifically establish an appeals process, Section 22 of the Act does provide that, "...the Board may reconsider any matter that it has dealt with and may rescind, alter or amend any decision or order it has made." The Board has interpreted the Act to establish and manage an appeals process that reviews situations, independent of the initial decision-making process. The legislation does stipulate the creation of Medical Review Panels with specific powers and responsibilities to examine medical questions.

The WCB believes that fair, consistent and impartial decision-making is the cornerstone for delivering effective, quality services. We also believe that the appeals process offers opportunities for continuous improvement in our services.

About This Report

This report outlines the activities and statistics for the WCB's appeals process for 2000. It also articulates the WCB's philosophical approach to the appeals process. More information about how to make an appeal is available in a separate fact sheet from the WCB.

The Appeals Process

The WCB's experience has shown that good communication is at the heart of the appeals process. Our process uses an inquiry model that collects facts from all aspects of a situation. We protect the integrity of our process by ensuring adherence to the principles of natural justice. Our information gathering method stands in contrast to the adversarial approach taken in a courtroom, for example. We encourage the free flow of information to eliminate misunderstandings and confusion, and to arrive at the best possible decision.

Before an appeal is launched, early resolution of the situation is encouraged. For example, clients can request that their case be reviewed by their Client Service Representative (CSR) or a Manager in the Client Services department, if there is new information to be considered. Clients can request to meet with these individuals or with the Appeals Committee to explain their point of view.

Levels of Appeal

The WCB provides two levels of appeal; an Appeals Committee and the Board itself. Appeals Committee cases are first screened by the Manager of Appeals as they are received. If the

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Medical Review Panels

Medical Review Panels are convened when a worker's doctor or chiropractor disagrees with a Board decision on medical grounds, and after all other avenues of appeal have been exhausted. The Chairperson of the panel is appointed by the Board, in consultation with the Saskatchewan Medical Association. The worker chooses the medical practitioners who sit on the Medical Review Panel. As noted above, the panel's decision is binding on the worker and the WCB. Employers do not have access to the Medical Review Panel process.

Response Times

The WCB prides itself on being accountable and providing good client service, and that includes a simple appeals process, as compared with other jurisdictions. While the WCB's turnaround time for appeals compares favourably with other boards, the processing time required has increased.

A reason is that the issues being appealed are becoming more complex and the injuries less specific. For instance, carpal tunnel or stress claims are becoming more common, as compared to claims for broken limbs. These more complex claims require more time for the development of the case file, and take longer to review.

In response, the WCB has implemented changes at the Appeals Committee level to assist with the timely processing of appeals:

- An additional Appeals Officer has been added to the Appeals Committee, on a temporary basis.
- Cases are now reviewed by one Appeals Officer, rather than two, although the option of a second or third opinion exists. This option depends on the complexity of the claim and is at the discretion of the Appeals Officer.
- The review focuses only on the issue under appeal where possible, rather than the entire file. In the vast majority of cases, a full documentation review is required.
- Appeals are processed on a first-come, first-served basis.
- The WCB plans to assign a Business Process Simplification team to examine the entire appeals process and to recommend ways to improve the process and reduce turnaround time.

The WCB pays interest retroactively on any wage loss compensation entitlement involved in a decision, if that decision takes more than 30 days.

Number and Nature of Appeals

The number of appeals has generally increased, from 714 in 1996 to 873 in 2000. Over the same five-year reporting period from 1996 to 2000, a claim not being initially accepted continued to be the primary reason for an appeal.

Appeals Statistics

Comparison of Appeals Information, 1996 to 2000
Appeals Committee

	2000	1999	1998	1997	1996
Appeals Received*	873	813	892	693	714
Decisions Made:					
Appeal Successful (Accepted)	169	190	199	191	104
Original Decision Upheld (Denied)	405	392	530	561	429
Returned to Original Unit for Further Development	171	109	117	137	37
Appeals Withdrawn	40	27	21	20	8
Total**	**785**	**718**	**867**	**909**	**578**
Average Number of Days for Decision	107	48	38	82	77

*Appeals received may include numerous appeals pertaining to one claim. Before 1999, appeals were recorded by claim. Starting in 1999, appeals are being recorded by issue.

**Total for each year does not include pending decisions from previous year

Comparison of Appeals Information, 1996 to 2000
Board Level Appeals

	2000	1999	1998	1997	1996
Appeals Received	201	212	252	223	221
Decisions Made:					
Appeal Successful (Accepted)	67	66	51	42	24
Original Decision Upheld (Denied)	149	127	190	165	158
Appeals Withdrawn	10	16	5	8	7
Total	**226**	**209**	**246**	**215**	**189**
Appeals Pending	94	110	107	101	93
Average Number of Days for Decision	188	183	124	143	134

Comparison of Appeals Information, 1996 to 2000
Medical Review Panels

	2000	1999	1998	1997	1996
Panels struck	6	12	12	9	15
Decisions Made:					
Issue Accepted	5	6	5	4	6
Issue Denied	1	6	7	5	9
Total	**6**	**12**	**12**	**9**	**15**

Sources of Appeals
Appeals Committee

Source	2000	1999	1998	1997	1996
Worker	517	483	520	413	388
Workers' Advocate	146	131	149	116	194
Employer	88	49	39	32	47
Lawyer	37	50	50	66	49
Union Official	47	46	65	41	39
Family	7	13	5	6	6
Other Representative	31	41	59	26	19
Total	**873**	**813**	**887**	**700**	**742**

Sources of Appeals
Board Level Appeals

Source	2000	1999	1998	1997	1996
Workers' Advocate	69	66	71	69	92
Worker	67	62	98	68	66
Lawyer	19	27	21	33	22
Employer	13	13	10	16	15
Union Official	4	15	20	23	15
Family	2	6	1	5	3
Other Representative	27	23	31	9	8
Total	**201**	**212**	**252**	**223**	**221**

Nature of Appeals
Appeals Committee

ISSUE	2000	1999	1998	1997	1996
Initial Acceptance	345	271	308	248	237
Relationship (of one injury to another)	140	156	163	100	110
Recovery / Fitness (Ability to Return to Work)	124	88	111	114	209
Estimated Earning Capacity	58	85	83	68	39
Other	46	45	38	24	29
Recovery (on-going due to pre-existing condition)	42	30	49	63	25
Cost Relief	35	22	10	10	24
PFI	24	34	29	15	11
Suspension	20	27	35	16	26
Wage Base	19	18	21	11	4
Retraining	10	16	20	25	18
Transportation Expense	9	18	20	4	8
Dependents	1	3	0	2	2
TOTAL	**873**	**813**	**887**	**700**	**742**

Nature of Appeals
Board Level Appeals

ISSUE	2000	1999	1998	1997	1996
Relationship (of one injury to another)	70	71	94	84	89
Initial Acceptance	43	62	56	50	50
Recovery / Fitness (Ability to Return to Work)	40	33	49	49	37
Other	9	6	6	2	4
Cost Relief	8	1	9	4	5
Retraining	7	8	3	1	1
Estimated Earning Capacity	6	14	22	18	19
Suspension	6	2	4	0	1
PFI	5	4	2	3	5
Wage Base	4	3	2	3	4
Dependents	2	1	2	2	1
Transportation Expense	1	2	1	0	1
Assessment Rates & Surcharge	0	5	2	7	4
TOTAL	**201**	**212**	**252**	**223**	**221**

Manager determines that information is missing, it is returned to the Client Services department for additional investigation. When the file is considered complete, the committee examines all of the information relating to the issue under review, and determines if the original decision was made in compliance with the facts of the case, the principles of natural justice, WCB policies and provincial legislation. If the client is not satisfied with the decision of the Appeals Committee, he or she can then request in writing to have the appeal considered by the Board, which is the final level of appeal.

Appeals to Board Level

The Board Members adhere to key principles to ensure that the appeals process contributes to the integrity of the compensation system. These principles are as follows:

- The Board is not bound by existing policy in making its decisions;
- A Board decision that does not follow current policy does not mean that a new policy has been made;
- Board decisions are not precedent-setting;
- WCB staff are bound by decisions made by the Board; and
- All parties are bound by decisions made by Medical Review Panels.

The Principles of Natural Justice

To act fairly and in good faith.

To act without bias.

To give each party the opportunity to state his or her case or position.

To give each party the opportunity to rebut statements that may be prejudicial to his or her case.

To ensure there is no abuse of power.

WCB SASKATCHEWAN WORKERS' COMPENSATION BOARD

200 – 1881 Scarth Street
Regina, Saskatchewan S4P 4L1
Phone: 1-800-667-7590
Fax: 1-888-544-7773
Visit our website: www.wcbsask.com